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THE NOTION OF THE CIVIL SERVICE AND THE MAIN FEATURES OF THIS INSTITUTION IN BRITAIN AND UKRAINE

An article describes the main functions and other features of a classical Western-type Civil Service — the British one. Comparing and contrasting characteristics of the British Civil Service to those of Ukraine's State Service, a conclusion is drawn that the contemporary Ukraine's State Service can be considered only as a body of professional staff of the State apparatus characterised by some tendencies towards its gradual transformation into the Civil Service while preserving a number of features that are contrary to the essence of that institution.

In the most general way one may shortly define the Civil Service as a body of professional public servants. The contents and the scope of their functions, their corporate and personal status, organisational principles differ depending upon particular circumstance of place and time. The relevant terminology applied in particular countries and cultures is also diverse: the civil servant may be “referred to as *fonctionnaire*, *ambtenaar*, or *Beamter*”¹ etc., or sometimes — as “*employee of the Public Service*”² (even though internationally the term ‘public service’ is normally used in a wider sense than the term ‘Civil Service’). Nevertheless due to the international influence of the English language, the total weight of the USA and the influence of British administrative traditions, the terms ‘Civil Service’ and ‘civil servant’ become now general international terms³.

In British literature, there is a number of different definitions of a civil servant. One of such definitions was proposed in 1931 by the Tomlin Commission: “Servants of the Crown, other than holders of political or judicial offices, who are employed in a civil capacity and whose remuneration is paid wholly and directly out of money voted by Parliament”⁴. Later the similar ideas started to be repeated in the annual “Civil Service Statistics”: “A servant of the Crown working in a civil capacity who is not: the holder of a political (or judicial) office; the holder of certain other offices in respect of whose tenure of office special provision has been made; a servant of the Crown in a personal capacity paid from the Civil List”⁵. In fact still “the term ‘civil servant’ lacks precise definition, an ambiguity which is not just of academic significance”⁶, meanwhile statistics (“Whom to consider being a civil servant?”) depend upon the definition.

From the above-mentioned official definitions, four main general characteristics of the notion of a ‘civil servant’ may be identified:

- (1) performing the functions of a servant of a sovereign authority;
- (2) an individual civil contract regulating relations between the servant and the authority (i.e. voluntary relations);
- (3) remuneration of the work of a servant at the expense of the state;
- (4) distinguishing a civil servant from some other (officially specified) categories of professionals employed by the state (e.g. judges, political nominations etc.) These categories may vary depending on the circumstances of particular countries and time.

The notion of the Civil Service may be elaborated by mentioning a more general phenomenon to which it may be referred to (as one of its particular kinds) and denoting peculiar characteristics of the analysed object:

The Civil Service is a *body of professional staff* (1) employed by the state, (2) performing public functions in the interests of the people (or sometimes — in the interests of the ruling elite), (3) responsible to the supreme authority, i.e. there is a clearly defined entity (sometimes it may be rather a set of ideological directions) to whom a person serves (this is a symbolic component of the relations defining a particular object of the provided service), (4) possessing the spirit of duty towards the ‘master’ — the society, the people, or alternatively (in an autocratic regime) — towards an individual or collective ruler⁷ (this represents a spiritual element of the relations which may be also described as an ‘active loyalty’ to those whom one serves), (5) working on a contractual basis and therefore in a

stable way receiving from the state a defined salary and other relevant payments, (6) meeting the requirements of special training (that means the rejection of amateurish approaches towards employment policy), (7) functioning on the basis of the relevant legal regulations and within the legally established structures (these are normative and an institutional components of the notion), (8) representing some particular part of the state machinery (apparatus) (it is an element of 'separateness') and being distinct from its 'other parts' with a different status, e.g. 'non civil' state military or police forces, as well as from the non-state (by their legal status) quasi-non-governmental institutions (quangos) and other components of an 'extended state' etc.

If necessary, some more detailed characteristics may be mentioned in the general definition of the term; whereas describing a certain 'national' or 'regional' kind of a Civil Service, a number of additional characteristics (pertaining to this particular kind) should be emphasised.

Besides taking into account general characteristics of any Civil Service, the elaboration (or understanding) of the notion of the British Civil Service presupposes mentioning some specific features of this 'national' kind of the Civil Service as well as separating it (in accordance with the British tradition and the theory and practice of public administration) from other types (and components) of professional service and state machinery.

As a specific type of Civil Service, the British one is characterised by permanence, political neutrality (impartiality), and anonymity⁸, whereas some other types of Civil Service (probably more precisely — the staff of the state machinery), e.g. in the societies with deeply-rooted Confucian or Islamic traditions may lack political neutrality, i.e. the adherence to some official ideology may be required⁹. In some circumstances (especially in transitional societies) a significant part of the Civil Service may be in fact non permanent.

One of the "normal working definitions" officially used in Britain states that the "civil servants are the staff of all the central Government departments working for Ministers"¹⁰, thus the Civil Service 'per se' is openly separated from other components of the public sector employees. Meanwhile in some other countries, almost all public sector employees may have the status of civil servants. For example, in Japan, the current Civil Service system introduced at the time of occupation after the World War II considers all public employees as civil servants; and the personnel administration of national civil servants is performed by the central personnel agency — the National Personnel Authority¹¹. In Austria, all

school teachers and employees of the State Railways have the status of civil servants. Taiwan's official statistics provide information that only 36 per cent of civil servants there "work in the central government"¹².

In Britain, the Civil Service 'per se' has a narrower and more specific range of responsibilities than its counterparts in many other countries. British civil servants, though nominally 'servants of the Crown', in practice report exclusively — if usually indirectly — to Ministers of the government of the day. Civil servants in Britain are clearly distinguished from:

(1) Ministers and MPs — "public servants who receive remuneration from public funds, but... are *political* officers";

(2) members of the armed forces who "are Crown servants, but are not serving in a *civil* capacity";

(3) judges and chairmen of administrative tribunals — "public servants whose independence from government is safeguarded by special rules and conventions";

(4) employees of Parliament who "are not servants of the Crown", even though "they may belong to civil service unions" and "recruited through the Civil Service Commission";

(5) local government employees who are "public servants but... are not civil servants";

(6) employees of public corporations being part of the still nationalised industries and services (these employees "are neither Crown servants nor civil servants");

(7) staff of quasi-governmental and quasi-non-governmental organisations¹³.

A theoretically interesting and practically important aspect in distinguishing the British Civil Service from some other areas of public service is related to the sphere of political geography.

Firstly, it is necessary to clearly understand what precisely 'Britain' is (and therefore 'British'). (A.) This term may be used in a pure cultural sense (which is not applicable to the context of the present research). (B.) It may denote an area under the direct jurisdiction of the Parliament of the United Kingdom of Great Britain and Northern Ireland¹⁴, and therefore comprises England, Wales, Scotland and Northern Ireland, and clearly excludes the Isle of Man and the Channel Islands (the Bailiwick of Jersey and the Bailiwick of Guernsey with the dependencies — Alderney and other small islands) which are under the sovereignty of the British Crown, but not the Parliament. Another specific issue is the status of some remaining British territories (and the relevant Civil Service) in the Atlantic, Pacific and Indian Oceans.

Secondly, Britain is a member of a number of international and supranational organisations and

associations of states (e.g. NATO, EU etc.), and their professional staff is a kind of special Civil Service. Some of British professionals employed there are British civil servants seconded to work in these institutions working directly for Britain and thus remaining part of the British Civil Service; some others become civil servants of the respective institutions and are not (or cease to be) British civil servants.

Thus not the whole area of 'public service', 'public administration' and 'public sector' (e.g. National Health Service employees; teachers etc.) can be considered as the area of Civil Service.

The 20th Century history of the state machinery and development of the theory of public administration in Ukraine (as well as in the rest of the post-Soviet countries) is characterised by a several decades-long diversion from the relevant world mainstream development. If accepting a general concept of evolution of Civil Service systems comprising four major phases: (1) civil servants as personal servants; (2) civil servants as state servants; (3) civil servants as public servants; (4) Civil Service as protected service; (5) Civil Service as professional service¹⁵, one may acknowledge that Ukraine experiences the results of an 'uncompleted evolution'. The third, fourths and fifth (conventionally distinguished) phases are still to be 'gone through'. Even though a number of their (these three phases') features are already present in Ukraine, the second phase characteristics are still predominant, being combined with some peculiarities produced by the advent of such phenomenon as a post-Soviet 'survival state'.

These historic factors have direct repercussions on the contents of the contemporary public administration theory in Ukraine.

In Ukraine, in the theory of administrative law related to the sphere of Civil Service, the term 'professional service' is used as the most general term, and it comprises: (a) the 'state service', and (b) the 'service in the non-state institutions'. In its turn, the state service is differentiated into: (a) the 'general service', and (b) various 'special services'¹⁶. The basis for the later classification is the 1993 Law of Ukraine "On the State Service".

The practical observation of the activities of Ukraine's State machinery allows to make some generalisations contrasting the features of contemporary Ukrainian State Service to those of the Civil Service as it is understood within the Western tradition depicted above:

(1). **Employment by the state.** From the formal legal point of view it is present, but in practice very often it means employment by the 'boss', 'political patron', who personally expects the signs of loyalty in return.

(2). **Performing public functions in the interests of the people.** In theory it is the case. Nevertheless usually in a 'survival state', various components of the state machinery are converted into a separate 'enterprise for a group or clan survival' vaguely connected with the general idea of a State and the theoretical (declared) purpose of serving the people. The de-facto 'privatisation' of the State functions (i.e. the use of state institutional resources in private interests of the State functionaries), a fraudulent personal use or appropriation of the State funds or real estate, permanent illegal connections with businesses etc.—all that became a common practice nowadays.

(3). **Responsibility to and loyalty towards the supreme authority.** In the situation of constant political and inter-personal conflicts between various 'branches' of the State power, and the still existing confusion in defining the 'national idea' and general aims of the State (following a strong psychological trauma for the vast strata of population after the collapse of the USSR), this symbolic component of the State Service in Ukraine is not yet finally formed.

(4). **Predominance of the spirit of duty towards the 'master'** — the society, the people, or an individual or collective ruler. The former 'master' — the Communist Party and ideology have been discredited or gone (as a ruler) anyway. The new formal political and real economic 'masters' are also discredited and commonly despised as selfish, short-sighted, unpatriotic, corrupt etc. Some people (with traditionalist values) employed in the public sector are still ready to serve the 'master', but there is none at the moment. The civil society is not yet ready to establish itself as a real master of the country.

(5). **Contractual basis of work and stable payment of salary.** If you are not receiving your salary in time and are paid what you are entitled to only after long delays (and that is the usual and almost universal post-Soviet practice in Ukraine), you are for sure expected (openly or latently) to look for some alternative sources of means of subsistence, and therefore to turn into either a beggar (if not an extortioner), or a kind of entrepreneur to whom the State de-facto entrusts to 'farm out' in some particular spheres of public life activities.

(6). **Meeting the requirements of efficient special training.** It is hardly achievable in the present situation at a large scale. There are a lot of 'amateurs' and just 'strangers' in the State Service, and many skilled professionals have left it (e.g. gone into business).

(7). **Functioning within the relevant legal and institutional framework.** There is a significant progress in creating such a framework (at least its formal components).

(8). **Being distinct from other professional State services** (e.g. military, attorneys etc.), the staff of quasi-non-governmental (for example, the National Academy of Sciences) and non-governmental organisations.

All the above-mentioned allows to draw a conclusion that the State Service in Ukraine possesses some aspects of general characteristics of

any Civil Service, and at the same time lacks some important features of those. Therefore it may be said that Ukraine's State Service can be considered only as a body of professional staff of the State apparatus characterised by some tendencies towards its gradual transformation into the Civil Service while preserving a number of features that are contrary to the essence of that institution.

Notes

¹ Auer, Astrid; Demke, Christoph; Polet, Robert. Civil Service in the Europe of Fifteen: Current Situation and Prospects. (European Institute of Public Administration: Maastricht, 1996.) — P. 25.

² Constitution of the Marshall Islands. (Micronitor News & Printing Company: s.l., 1988.) — P. 36—41.

³ See e.g.: Civil Service Systems in Comparative Perspective / Edited by Hans A. G. M. Bekke, James L. Perry and Theo A. J. Toonen. (Indiana University Press: Bloomington & Indianapolis, 1996.) — 346 p.

⁴ Cited from: Drewry, Gavin and Butcher, Tony. The Civil Service Today. (Blackwell: Oxford UK; Cambridge USA, 1995.) — P. 13.

⁵ Civil Service Statistics. (HMSO: London, 1987.) — P. 11.

⁶ Greenwood, John and Wilson, David. Public Administration in Britain Today. (Routledge: London; New York, 1993.) — P. 86.

⁷ The term 'the Crown' which is widely officially used in contemporary Britain should not be necessarily associated with the existence of an autocratic regime (which is not the case in contemporary Britain). The Crown is a legal entity, a 'corporation' embodied by the Monarch who personally represents the Crown, but is distinct from it, including in the sphere of property rights. Under this corporation all affairs of the State are subsumed. In fact, loyalty to the Crown is a traditional denoting of the readiness to serve the general public interests which for historic and cultural reasons preserves the form of the loyalty to the Monarch.

⁸ Greenwood, John and Wilson, David. Public Administration in Britain Today. — P. 87; Anthony H. Birch, The British System of Government. Ninth edition. (Routledge: London; New York, 1993.) — P. 141.

⁹ Nevertheless many other aspects of 'neutrality' are present in autocratic systems of government machinery. For example, in traditionalist Confucian China, "when an emperor was deposed, it mattered little who took his palace, since the Chinese bureaucratic system continued to function" (The Republic of China Yearbook 1996. (Government Information Office: Taipei, 1996.)) — P. 43.

¹⁰ Parliament, Government and the Civil Service.— In: Governance in the UK. Finding your way round Whitehall and beyond. (Cabinet Office: London, January 1998.) <http://www.britcoun.org/governance/hkgov/whitehall/index.htm>. — P. 4.

¹¹ Handbook for Recruitment and Promotion System of Civil Servants in Japan. (National Personnel Authority: Tokyo, July 1993.) — P. 1—3; Handbook on Japan's Civil Service Statistical Overview 1993—94. (National Personnel Authority: Tokyo, 1994.) — P. 3—8.

¹² The Republic of China Yearbook 1996. — P. 83.

¹³ Drewry, Gavin and Butcher, Tony. The Civil Service Today. — P. 15—17.

¹⁴ In one of the Foreign and Commonwealth Office publications, it is stated that "the term 'Britain' is used... to mean the United Kingdom of Great Britain and Northern Ireland: Great Britain comprises England, Wales and Scotland" (Britain's System of Government. (Foreign & Commonwealth Office: London, 1995.)) — P. ii.

¹⁵ Raadschelders, Jos C. N.; Rutgers, Mark R. The Evolution of Civil Service Systems.— In: Civil Service Systems in Comparative Perspective / Edited by Hans A.G.M. Bekke, James L. Perry, and Theo A. J. Toonen.— P. 67—92.

¹⁶ Koval, L. V. Administratyvne pravo. (Venturi: Kiev, 1998.) — P. 46—47.

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ПОНЯТТЯ ДЕРЖАВНОЇ СЛУЖБИ Й ГОЛОВНІ РИСИ ЦЬОЇ ІНСТИТУЦІЇ У ВЕЛИКОБРИТАНІЇ ТА В УКРАЇНІ

У статті висвітлюються головні функції та інші риси такого класичного різновиду західної державної ("громадянської") служби як британська. На базі порівняння характеристик британської та української державної служби робиться висновок, що сучасну державну службу в Україні слід розглядати лише як корпус професійних службовців, що працюють у державному апараті, якому притаманні деякі тенденції поступового перетворення на державну службу західного (європейського) типу, але який водночас зберігає багато рис, що суперечать природі класичної західної державної ("громадянської") служби.